

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

13-CR-19-S

NINA JAFARI,

Defendant.

GOVERNMENT'S RESPONSE IN OPPOSITION
TO THE DEFENDANT'S MOTION
FOR NON-JURY TRIAL AND OTHER RELIEF

MICHAEL DIGIACOMO, being duly sworn, deposes and states:

1. I am the Assistant United States Attorney in the above-captioned case. As such, I am fully familiar with the pleadings and proceedings to date.

2. This Affidavit is submitted in response to and in opposition of the defense notice of motion dated November 3, 2013.

3. The defendant's motion seeks the Court to rule on the motions submitted by the parties without oral argument and requests a non-jury trial.

4. Rule 23, of the Federal Rules of Criminal Procedure, is titled Jury and Non-Jury Trial.

5. Rule 23(a) states “If the defendant is entitled to a jury trial, the trial must be by jury unless:

- a. the defendant waives a jury trial in writing;
- b. the government consents; and
- c. the Court approves”.

6. The defendant’s motion should be denied because the government does not consent to a non-jury trial.

WHEREFORE, the government respectfully requests the Court deny the defendant’s motion along with such other and further relief as the Court deems just and proper.

DATED: Buffalo, New York, November 6, 2013.

WILLIAM J. HOCHUL, Jr.
United States Attorney

S/ MICHAEL DIGIACOMO

BY:

MICHAEL DIGIACOMO
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CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2013, I electronically filed the foregoing **GOVERNMENT'S RESPONSE IN OPPOSITION TO THE DEFENDANT'S MOTION FOR NON-JURY TRIAL AND OTHER RELIEF** with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participant on this case:

Robert Ross Fogg, Esq.

S/ KATHLEEN M. RIEMAN

KATHLEEN M. RIEMAN